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DEC 05 2007

RICHARD M. BERMAN
U.S.D.J.**MEMO ENDORSED**Hon. Richard M. Berman
U.S. District Court Judge
500 Pearl Street, Room 650
New York, N.Y. 10007-1312

Re 07 Civ 8819: James LeBow v. Mintz & Fraade et al.

December 5, 2007

APPLICATION RESPECTFULLY DENIED.
SEE ORDER DATED 11/14/07.

SO ORDERED:

Date: 12/6/07

Richard M. Berman
Richard M. Berman, U.S.D.J.

I apologize for writing the court about a case that has been settled and closed but a new problem has arisen that undermines this court's order of discontinuance. I am counsel to the defendant Mintz & Fraade in the above referenced lawsuit. This is a landlord-tenant dispute. Plaintiff rents office space from the defendant law firm. The lawsuit was discontinued pursuant to a settlement agreement reached in open court on the record. Copies of this court's order of discontinuance dated October 31, 2007 and the transcript of the settlement are attached hereto.

The settlement was comprehensive. It included the stay of a separate lawsuit pending in New York's State Supreme Court brought by one of plaintiff's personnel in which plaintiff is counsel of record. (Other counsel represent Mintz & Fraade in that case). The stay was to be in place until June 30, 2008 or sooner upon plaintiff vacating the premises. Upon vacating, plaintiff committed to filing a stipulation of discontinuance with prejudice in that case (Transcript 11-12).

Notwithstanding the stay, defendant Mintz & Fraade was served on December 3, 2007 with a motion to dismiss a third-party complaint against plaintiff in that action. (Mintz & Fraade had served the third party complaint and counterclaims the day before this court's order and stay had been served on them. Plaintiff had refused their request for an extension of time to respond to that suit). Plaintiff's motion to dismiss flies in the face of this court's order staying that State court action.

The motion to dismiss must be responded to by Dec. 10. To avoid continued litigation in the stayed State court action, your Honor's prompt intervention to order plaintiff to withdraw that motion or face contempt of court and sanctions is respectfully requested. Thank you.

Respectfully submitted,

Robert Chira

Robert Chira

cc. Mintz & Fraade
James B. LeBow, Esq.